In the High Court of Punjab and Haryana at Chandigarh

.....

Criminal Misc. No.21740-M of 2007

.....

Date of decision: 5.4.2007

Balwinder Singh

.....Petitioner

v.

Senior Superintendent of Police, Batala and others

.....Respondents

....

Present: Mr. Gagandeep Singh Sirphikhi, Advocate for the petitioner.

.....

S.S. Saron, J. (Oral)

The petitioner seeks quashing of the calendra (Annexure-P.4) which has been initiated by the Police under Section 107 Cr.P.C.

Learned counsel for the petitioner submits that the entire story in the calendra is concocted and the tractor which is alleged to have been impounded at the police station was in fact taken from the petitioner from the land in dispute in order to cause undue harassment, pressurize and torture the petitioner. It is submitted that the petitioner is in possession of the property which is evident from the order dated 23.12.2006 (Annexure-P.2) passed by the learned Additional District Judge (Ad hoc)-cum-Presiding Officer, Fast Track Court, Gurdaspur. Therefore, it is submitted that the proceedings in terms of the calendra are liable to be quashed.

After giving my thoughtful consideration in the matter it is appropriate to note that the prayer for quashing the calendra has been made

on the ground that wrong facts have been recorded, inasmuch as, the tractor was taken in possession at the police station whereas it was taken from the fields of the petitioner of which he is in possession. It is well known that in exercise of jurisdiction under Section 482 Cr.P.C. this Court is not to embark upon an inquiry into the veracity of facts and to ascertain whether these are likely to be established or not. This is the domain of the trial Court where the proceedings are pending and evidence comes before it. Therefore, it would be more appropriate if the petitioner substantiates his stand before the Court where the calendra has been filed by leading evidence in that regard. Insofar as the question regarding possession of the petitioner is concerned that is also not to be gone into the present proceedings under Section 482 Cr.P.C.

In the circumstances, the present petition is pre-mature and is accordingly disposed of.

April 5, 2007. **(S.S. Saron)**
Judge

hsp